



# RULE-MAKING ORDER

**CR-103 (June 2004)**  
(Implements RCW 34.05.360)

**Agency:** Department of Retirement Systems

☒ **Permanent Rule**  
☐ **Emergency Rule**

**Effective date of rule:**

**Permanent Rules**

☒ 31 days after filing.  
☐ Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Effective date of rule:**

**Emergency Rules**

☐ Immediately upon filing.  
☐ Later (specify) \_\_\_\_\_

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

☐ Yes ☒ No If Yes, explain:

**Purpose:** WAC 415-02-175 provides information about purchasing service credit for periods of unpaid authorized leave of absence. It applies to members of PERS Plan 2 and Plan 3, TRS Plan 2 and Plan 3, SERS Plan 2 and Plan 3, and LEOFF Plan 2. WAC 415-104-374, 415-108-491, and 415-110-491 are amended to replace duplicative information with references to the new rule.

**Citation of existing rules affected by this order:**

Repealed:

Amended: WAC 415-104-374, 415-108-491, 415-110-491

Suspended:

**Statutory authority for adoption:** RCW 41.50.050(5)

**Other authority :** For WAC 415-02-175: RCW 41.40.710; 41.40.805; 41.32.810; 41.32.865; 41.35.470; 41.35.650; 41.26.520; 41.50.165 Other rules: RCW 41.50.050(5)

**PERMANENT RULE ONLY (Including Expedited Rule Making)**

Adopted under notice filed as WSR 04-17-083 on August 16, 2004.

Describe any changes other than editing from proposed to adopted version: No changes.

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting: N/A

Name: \_\_\_\_\_ phone ( ) \_\_\_\_\_  
Address: \_\_\_\_\_ fax ( ) \_\_\_\_\_  
e-mail \_\_\_\_\_

**EMERGENCY RULE ONLY**

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

**Date adopted:** September 23, 2004

**NAME (TYPE OR PRINT)**  
Maureen Westgard

**SIGNATURE**

**TITLE**  
Deputy Director

**CODE REVISER USE ONLY**

**Filed with the Office of the Code Reviser**

**September 23, 2004**

**WSR 04-20-005**

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	<u>1</u>	Amended	<u>3</u>	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	<u>1</u>	Amended	<u>3</u>	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	_____	Amended	_____	Repealed	_____

## NEW SECTION

**WAC 415-02-175 May I purchase service credit for the time I was on an unpaid authorized leave of absence? (1) Will I get service credit for the time I was on an unpaid authorized leave of absence?** You will receive service credit for the period of time you are on an unpaid authorized leave of absence, up to a maximum of twenty-four service credit months during your entire working career, provided:

- (a) You are a member of PERS Plan 2 or Plan 3, TRS Plan 2 or Plan 3, SERS Plan 2 or Plan 3, or LEOFF Plan 2;
- (b) Your leave of absence was authorized by your employer;
- (c) You resumed employment according to the requirements in subsection (3) of this section; and
- (d) You purchase the service credit for the period of leave according to the provisions in this section.

**(2) How does an unpaid authorized leave of absence affect my retirement?** If you purchase service credit for the period of time you were on an unpaid authorized leave of absence:

- (a) It will be used as part of your total service credit to determine retirement eligibility and pension; but
- (b) The period of time you were on leave will not be included in your average final compensation period.

Example:

Joseph has the following earnable compensation prior to retirement:

YR 1	\$30,000
YR 2	\$35,000
YR 3	\$40,000
YR 4	\$45,000

YR 5	\$50,000
YR 6	Unpaid leave of absence for entire year
YR 7	\$55,000

Joseph's AFC period will be YR 2, YR 3, YR 4, YR 5, and YR 7.

**(3) Do I qualify to purchase this service credit?** As a requirement for purchasing this service credit, you must resume employment within the same retirement system you left.

(a) After resuming employment, you may request, and pay for, service credit whether you are a contributing member or whether you become inactive.

(b) If you are a law enforcement officer in LEOFF Plan 2 and took a part-time unpaid leave of absence while you worked part-time, you may request service credit only after returning to full-time employment with the employer that authorized your leave of absence. In this case, you may only request part-time service credit for the portion of time you were on unpaid leave of absence.

**(4) How do I request this service credit?** If you desire to purchase the service credit for unpaid authorized leave of absence, you must contact the department. The department will obtain written verification from your employer confirming the months of your authorized leave of absence and your salary for the months preceding and following the leave.

**(5) How does the department determine the cost of purchasing this service credit?**

(a) In order to purchase service credit for the period of time you were on leave of absence, you must pay the employee and employer retirement contributions, plus applicable interest. LEOFF Plan 2 members must also pay the contributions normally paid by the state.

(b) The amount of the employee and employer contributions is calculated as follows:

(i) For TRS members, the salary upon which contributions are calculated is determined by averaging the salary earned for the school year, as defined in RCW 28A.150.040, prior to your unpaid leave of absence and the salary earned in the school year after you returned to work. If you were on leave of absence for less than the entire school year, that year's salary will be prorated according to the number of months you were on leave of absence.

(ii) For law enforcement officers in LEOFF Plan 2 who took a part-time unpaid leave of absence while working part-time, the salary upon which contributions are calculated is determined by:

(A) Averaging your basic salary during the last full month of employment before your part-time leave of absence, and your basic salary during the first full month after you return to full-time employment; and

(B) Multiplying the monthly salary determined according to (b)(ii)(A) of this subsection by the number of months you were on leave.

(iii) For members of other systems, the salary upon which contributions are calculated is determined by:

(A) Averaging the compensation earned during the last full month of employment before your leave of absence, and the compensation you earned during the first full month after you returned to work; and

(B) Multiplying the monthly salary determined according to (b)(iii)(A) of this subsection by the number of months you were on leave.

If you worked part-time prior to the leave of absence, partial month wages will be used to estimate your average salary. In this case, you may only purchase part-time service credit for the period of time you were on leave of absence.

**(6) What is the payment process for purchasing this service credit?**

(a) You may purchase this service credit in one payment, or make payments at any time until the deadline expires.

(b) Interest will accrue on the unpaid balance until payment is made in full.

(c) The department will accept funds that have been rolled over from a tax-deferred retirement account for the purchase of the service credit. However, the amount you may roll over is limited to the purchase price of the service credit. If the rollover amount does not cover the entire purchase price, you must pay the additional amount within thirty days of the rollover. If the balance is not paid within thirty days, the rollover funds will be returned to the original financial institution.

(d) If you took more than one authorized leave of absence, the department will bill you separately for each occurrence. Service credit will be granted for each occurrence only after the bill for that period is paid in full.

**(7) What is the deadline for purchasing this service credit?** Except as provided in subsection (9) of this section:

(a) If you are a member of PERS Plan 2, SERS Plan 2, or LEOFF Plan 2, payment in full must be received within five years from the initial date of your return to an eligible position, or prior to your retirement, whichever occurs first.

(b) If you are a member of PERS Plan 3 or SERS Plan 3, payment in full must be received prior to your retirement.

(c) If you are a member of TRS Plan 2 or Plan 3, payment in full must be received by August 31st of the fifth school year, as defined in RCW 28A.150.040, after you return to employment or prior to your retirement, whichever comes first. The school year during which you return to work will be counted as year one.

**(8) What if I do not make payment in full by the deadline?**

(a) If you are a Plan 2 member and do not make payment in full by the deadline, the amount you paid will be refunded to you.

(b) If you are a Plan 3 member and do not make payment by the deadline, the portion of your payments that were:

(i) Employer contributions will be refunded to you; and

(ii) Employee contributions will be deposited into your defined contribution account and available to you only upon separation from service.

(c) If you are a Plan 2 member, the department will refund partial payments prior to the deadline upon your request.

(d) If you are a PERS Plan 2, SERS Plan 2, or TRS Plan 2 member and transfer to Plan 3 prior to making payment in full:

(i) The department will refund any partial payments; and

(ii) You must reapply under Plan 3 if you still wish to purchase this service credit.

**(9) What is the exception to the deadline?** After your initial deadline has passed, you retain the right to purchase this service credit until the date of your retirement. However, the purchase price will be equal to the full actuarial value of the increase in benefit that results from the purchased service credit. You may use the two-part formula in WAC 415-10-040 to determine actuarial value.

**(10) What state law applies to purchasing service credit for an unpaid authorized leave of absence?**

(a) PERS Plan 2: RCW 41.40.710;

(b) PERS Plan 3: RCW 41.40.805;

(c) TRS Plan 2: RCW 41.32.810;

- (d) TRS Plan 3: RCW 41.32.865;
- (e) SERS Plan 2: RCW 41.35.470;
- (f) SERS Plan 3: RCW 41.35.650;
- (g) LEOFF Plan 2: RCW 41.26.520;
- (h) Deadline extension: RCW 41.50.165.

AMENDATORY SECTION (Amending WSR 02-18-047, filed 8/28/02, effective 9/1/02)

**WAC 415-104-374 LEOFF Plan 2 part-time leave of absence. (1) What are the LEOFF Plan 2 part-time leave rules for law enforcement officers?**

- (a) You must be a current LEOFF Plan 2 *law enforcement* member;
- (b) Your employer must authorize you to work part time and go on an unpaid part-time leave of absence;
- (c) While in part-time work/part-time leave status, you cannot do any other work for pay for your employer; and
- (d) When you return to full-time employment, the employment must be with the same employer who granted you the part-time leave.

**(2) May I purchase service credit for periods of part-time leave?**

~~((a) You may purchase service credit for any periods of any type of unpaid leave of absence, but only up to a *lifetime* maximum of two years of service credit.~~

~~(b) In purchasing service credit, you must pay the member, employer, and state contributions, plus interest. The contributions required will be based on the average of your basic salary at the time the employer granted your authorized leave of absence and your basic salary at the time you resumed full-time employment.~~

~~(c) You must complete the service credit purchase within five years of your return to full-time employment, or prior to your retirement, whichever is earlier.~~

~~(d) If you fail to complete the service credit purchase within five years of your return to full-time employment, you may purchase the service credit by paying the amount required under RCW 41.50.165(2) prior to retirement.)~~ See WAC 415-02-175 for information about purchasing service credit for an unpaid authorized leave of absence.



AMENDATORY SECTION (Amending WSR 02-03-120, filed 1/23/02, effective 3/1/02)

**WAC 415-108-491 Salary imputed to periods of unpaid leave.** In some circumstances specified in statute, a member may choose to establish service credit for periods of unpaid leave. The salary imputed to a member for purposes of calculating contributions owing for such periods of leave is not reportable compensation. Depending on the type of leave, the imputed compensation may or may not be included as average final compensation in calculating a member's retirement allowance.

(1) ~~((**Authorized unpaid leave.** RCW 41.40.710 provides Plan 2 members with an option to establish service credit for periods of unpaid leave. RCW 41.40.805 provides Plan 3 members with an option to establish service credit for periods of unpaid leave. RCW 41.40.038 provides members with an option to establish service credit for periods of disability covered by industrial insurance. Salary imputed to members in order to calculate contributions for such periods is not reportable compensation and can not be included as average final compensation in calculating a member's retirement allowance.))~~

**Unpaid authorized leave of absence.** For information about purchasing service credit for periods of unpaid authorized leave of absence, see:

(a) Plan 2: WAC 415-02-175 and RCW 41.40.710; and

(b) Plan 3: WAC 415-02-175 and RCW 41.40.805.

(2) **Periods of disability.** See RCW 41.40.038 for information about establishing service credit for periods of disability covered by industrial insurance.

(3) **Military leave.** For Plan 2 and Plan 3, salary imputed to a member for purposes of calculating contributions owing for periods of interrupted military service is not reportable compensation. Federal law requires that if a member chooses to purchase credit for such periods of military service, and that period falls in the member's average final compensation period, the member is entitled to have the imputed salary he or she would have earned during the period of absence used in the calculation of his or her average final compensation.

AMENDATORY SECTION (Amending WSR 01-01-059, filed 12/12/00, effective 1/12/01)

**WAC 415-110-491 Salary imputed to periods of unpaid leave.** In some circumstances specified in statute, a member may elect to establish service credit for periods of unpaid leave. The salary imputed to a member for purposes of calculating contributions owing for such periods of leave is not reportable compensation. Depending on the type of leave, the imputed compensation may or may not be included as average final compensation in calculating a member's retirement allowance.

~~(1) ((Authorized unpaid leave. RCW 41.35.470 (Plan 2) and RCW 41.35.650 (Plan 3) provides members with an option to establish service credit for periods of unpaid leave. RCW 41.35.070 provides members with an option to establish service credit for periods of disability covered by industrial insurance. Salary imputed to members in order to calculate contributions for such periods is not reportable compensation and can not be included as average final compensation in calculating a member's retirement allowance.))~~  
Unpaid authorized leave of absence. For information about purchasing service credit for periods of unpaid authorized leave of absence, see:

(a) Plan 2: WAC 415-02-175 and RCW 41.35.470; and

(b) Plan 3: WAC 415-02-175 and RCW 41.35.650.

(2) Periods of disability. See RCW 41.35.070 for information about establishing service credit for periods of disability covered by industrial insurance.

(3) Military leave. Salary imputed to a member for purposes of calculating contributions owing for periods of interrupted military service is not reportable compensation. Federal law requires that if a member elects to purchase credit for such periods of military service, and that period falls in the member's average final compensation period, the member is entitled to have the imputed salary he or she would have earned during the period of absence used in the calculation of his or her average final compensation.